



FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 1

[WC Docket No. 18-89; DA 22-967; FR ID 106418]

Wireline Competition Bureau Reminds Secure and Trusted Communications Networks Reimbursement Program Recipients of Their Status Update Filing Obligation

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document, the Wireline Competition Bureau (Bureau) reminds Recipients in the Secure and Trusted Communications Networks Reimbursement Program (Reimbursement Program) of their obligation to file status updates with the Federal Communications Commission (Commission or FCC) every 90 days, beginning on the date on which the Bureau approved Recipients' applications, until the obligation to file expires. Because Recipients' applications were approved on July 15, 2022, all initial status updates are due on October 13, 2022.

DATES: The final rule is effective on [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]. All initial status updates are due on October 13, 2022.

FOR FURTHER INFORMATION CONTACT: Callie Coker, Wireline Competition Bureau, at 202-418-2793, Callie.Coker@fcc.gov.

SUPPLEMENTARY INFORMATION: This is a summary of the Bureau's document in WC Docket No. 18-89; DA 22-967, released on September 16, 2022. The full text of this document is available at the following Internet address: <https://www.fcc.gov/document/supply-chain-reimbursement-program-status-update-deadline-reminder>. To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an email to FCC504@fcc.gov or call the Consumer & Governmental Affairs Bureau at 202-418-0530 (voice), 202-418-0432 (TTY).

1. By this document, the Bureau reminds Recipients in the Reimbursement Program

of their obligation to file status updates with the Commission every 90 days, beginning on the date on which the Bureau approved Recipients' applications, until the obligation to file expires. Because Recipients' applications were approved on July 15, 2022, all initial status updates are due on October 13, 2022. As required by the Secure and Trusted Communications Networks Act of 2019, as amended (Secure Networks Act), the status updates must inform the Commission about the work of the Recipient to permanently remove, replace, and dispose of the covered communications equipment or services, which for the purposes of the Reimbursement Program means all communications equipment or services produced or provided by Huawei Technologies Company or ZTE Corporation and obtained on or before June 30, 2020 (covered communications equipment or services).

2. *Background.* As directed in the Secure Networks Act, the Commission established the Reimbursement Program to reimburse providers of advanced communications services with ten million or fewer customers for reasonable costs incurred in the removal, replacement, and disposal of covered communications equipment or services from their networks that pose a national security risk. In the *2020 Supply Chain Order*, 86 FR 2904 (January 13, 2021), the Commission established and adopted rules for the Reimbursement Program, revised these rules in the *2021 Supply Chain Order*, 86 FR 46995, August 23, 2021, and subsequently provided additional guidance on the application, reimbursement, and disposal process. On July 15, 2022, the Bureau issued decisions approving and denying applications submitted for Reimbursement Program support. Recipients were announced in a Public Notice released by the Bureau on July 18, 2022.

3. The Secure Networks Act requires that “[n]ot less frequently than once every 90 days beginning on the date on which the Commission approves an application for a reimbursement under the [Reimbursement] Program, the recipient of the reimbursement shall submit to the Commission a status update on the work of the recipient to permanently remove, replace, and dispose of the covered communications equipment or services.” The Secure

Networks Act also provides that “[n]ot earlier than 30 days after the date on which the Commission receives a status update,” the Commission “shall make such status update public on the website of the Commission.” In the *2020 Supply Chain Order*, the Commission required Recipients to file the first status updates within 90 days of receiving their funding allocations.

4. *Status Updates Obligation.* In accordance with the Secure Networks Act and Commission rules, each Recipient must regularly submit status updates beginning on October 13, 2022, and then every 90 days thereafter until the Recipient has notified the Commission of the completion of the permanent removal, replacement, and disposal of the covered communications equipment or service pursuant to a final certification. The Commission has interpreted the Secure Networks Act as permitting the Commission to require the first status update filing 90 days after the approval of applications for reimbursement, and also that the updates be filed at least every 90 days. In the *2020 Supply Chain Order*, the Commission noted that status updates “will help the Commission monitor the overall pace of the removal, replacement, and disposal [(RRD)] process and whether recipients are acting consistently with the timelines provided to the Commission or whether unexpected challenges are causing delay.” Furthermore, due to the importance of status updates in the Commission’s role to monitor Recipients’ implementation of their RRD timelines, we clarify that while Recipients may submit status updates more frequently than every 90 days, they *must* file status updates every 90 days to satisfy their obligation. As such, we make a procedural revision to § 1.50004(k) to clarify that Recipients must file a status update with the Commission 90 days after the date on which the Bureau approves the Recipient’s application, and every 90 days thereafter until the expiration of the obligation to file. This revision is permissible without notice and comment because the timeframe in which a Recipient must file its periodic reports under § 1.50004(k) of the Commission’s rules is a procedural rule. This rule modification will ensure that the status updates provide the Bureau with the information it needs to perform the assessments contemplated by the Secure Networks Act and the Commission’s orders and rules. For instance, if a Recipient filed its first status update on October 13, 2022, and filed its second on

October 27, 2022, the second report would provide little insight into how much progress the Recipient has made on the permanent removal, replacement, and disposal of the covered communications equipment and services in its network since the first 90-day reporting period.

5. Recipients are required to report on their “work to permanently remove, replace, and dispose of the covered communications equipment or services” in their communications networks, including the efforts undertaken and challenges encountered in performing that work. The status updates must also include whether the Recipient has: (1) fully complied with, or is in the process of complying with, all requirements of the Reimbursement Program; (2) fully complied with, or is in the process of complying with, the commitments made in the Recipient’s application; (3) permanently removed from its communications network, replaced, and disposed of, or is in the process of permanently removing, replacing, and disposing of, all covered communications equipment or services that were in the Recipient’s network as of the date of the submission of the Recipient’s application; and (4) fully complied with, or is in the process of complying with, the timeline submitted by the Recipient in their application. We remind Recipients that timelines submitted to the Commission outlining the Recipient’s RRD process must comport with the Recipient’s deadline to complete the permanent removal, replacement, and disposal of covered communications equipment and services, which is one year from its initial distribution of a reimbursement. Recipients shall also report in detail on the availability of replacement equipment in the marketplace so the Commission can assess whether a general, six-month extension permitted by the statute is appropriate. Lastly, each status update must include a certification that affirms the information in the update is accurate.

6. The Bureau issued decisions approving and denying applications submitted for Reimbursement Program support on July 15, 2022. As such, Recipients must submit their first status updates on October 13, 2022, and thereafter every 90 days until the expiration of the obligation to file. The obligation to file status updates expires after the Recipient has notified the Commission of the completion of the permanent removal, replacement, and disposal of the

covered communications equipment or service pursuant to a final certification. Recipients will submit status updates through the online portal, <https://fccprod.servicenowservices.com/scrp> (SCR Online Portal) by completing FCC Form 5640 Part K: Status Updates.

7. *Public Posting and Requests for Confidentiality.* Consistent with the Secure Networks Act, the Bureau will make the Recipients' status updates public by publishing them on the Commission's website no earlier than 30 days after the 90-day filing deadline. A link to the public status updates will be provided on the Commission's Reimbursement Program webpage, <https://www.fcc.gov/supplychain>. For administrative ease, we clarify that if a Recipient opts to file multiple status updates within a particular 90-day period (e.g., a status update filed at the 30-day mark prior to filing the mandatory status update at the 90-day mark), we will post all status updates filed for a given 90-day period to the Commission's website no earlier than 30 days after the close of that period. We also correct a discrepancy between § 1.50004(k)(2) of the Commission's rules and section 4(d)(8)(B) of the Secure Networks Act regarding the timing by which the Commission must post the status updates to its website. To comply with the Secure Networks Act, we clarify that the Bureau will publicly post the status update filings on the Commission's website no earlier than 30 days after the close of the 90-day period covered by the status update. This revision is permissible without notice and comment because § 1.50004(k)(2) is a procedural rule. Further, we find that notice and comment is not necessary under the "good cause" exception of the Administrative Procedure Act because the revision modifies the rule to be consistent with the statutory requirement.

8. Consistent with this requirement, we remind Recipients that status updates submitted to the Commission are *public*. We believe that most Recipients will be able to comply with the content requirements for status updates without including details that the Commission has determined are presumptively confidential. For instance, we believe that Recipients may comply with the content requirements of status updates without disclosing vendor price quotes; invoices; detailed accounting information on the covered communications equipment and services

removed, replaced, and disposed of, and the replacement equipment or services purchased, rented, leased, or otherwise obtained using Reimbursement Program funds; the address, latitude/longitude of equipment or service locations; sensitive information in removal or replacement plans; specific equipment or service types; or the specific details of removal, replacement, and disposal timeliness. Recipients that need to include confidential information to accurately and fully report on the status of their removal, replacement, and disposal work, any challenges encountered in performing that work, or other status report content requirements must request confidential treatment of those details pursuant to § 0.459 of the Commission's rules. In addition to the content requirements of § 0.459 of the Commission's rules, Recipients should include the SCRP application numbers applicable to the status update and the Recipient's FCC Registration number in their requests for confidential treatment. Requests for confidential treatment must be submitted by filing a written request electronically in WC Docket No. 18-89 in the Commission's Electronic Comments Filing System (ECFS), <https://www.fcc.gov/ecfs>. Recipients should file any such requests for confidential treatment concurrently with submission of the corresponding status update on the SCRP Online Portal. Recipients must attach to their filings a version of their status updates that redacts the specific information for which they are seeking confidential treatment. Recipients may download a PDF copy of their completed status updates from the SCRP Online Portal to redact and submit with requests for confidential treatment. We remind Recipients that requests for confidential treatment and associated redactions that are overbroad or otherwise inconsistent with the Commission's rules will be rejected. The Bureau will post the redacted version of a status update for which confidential treatment has been sought on the Commission's website.

9. The final regulations at the end of this document reflect the two procedural rule changes for the Reimbursement Program adopted herein. The updated rules will become effective upon publication in the Federal Register.

10. *Additional Information and Resources.* Recipients with questions may contact the

Fund Administrator Help Desk by email at SCRPFundAdmin@fcc.gov or by calling (202) 418-7540 from 9:00 AM ET to 5:00 PM ET, Monday through Friday, except for Federal holidays. General information and Commission documents regarding the Reimbursement Program are available on the Reimbursement Program webpage, <https://www.fcc.gov/supplychain>.

11. The Commission will not send a copy of this document to Congress and the Government Accountability Office pursuant to the Congressional Review Act (CRA), see 5 U.S.C. 801(a)(1)(A), because it does not adopt any rule as defined in the CRA, 5 U.S.C. 804(3).

List of Subjects in 47 CFR Part 1

Communications, Communications common carriers, Communications equipment, Telecommunications, Telephone.

(47 U.S.C. chs. 2, 5, 9, 13; 28 U.S.C. 2461 note, unless otherwise noted)

FEDERAL COMMUNICATIONS COMMISSION

Pamela Arluk,
Chief, Competition Policy Division, Wireline Competition Bureau.

Final Regulations

For the reasons stated in the preamble, the Federal Communications Commission amends 47 CFR part 1 as follows:

PART 1 – PRACTICE AND PROCEDURE

1. The authority citation for part 1 continues to read as follows:

Authority: 47 U.S.C. chs. 2, 5, 9, 13; 28 U.S.C. 2461 note, unless otherwise noted.

2. Amend § 1.50004 by revising paragraphs (k) introductory text and (k)(2) to read as follows:

§ 1.50004 Secure and Trusted Communications Networks Reimbursement Program.

(k) *Status updates.* Reimbursement Program recipients must file a status update with the Commission 90 days after the date on which the Wireline Competition Bureau approves the recipient's application for reimbursement and every 90 days thereafter, until the recipient has filed the final certification.

(2) The Wireline Competition Bureau will publicly post on the Commission's website the status update filings no earlier than 30 days after submission.

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